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2-18-1988

# Motor Vehicle Accident Claims And Insurance Regulation. Initiative Statute.

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12/30/92

#445 is another initiative.  
(Small Claims Court.)

There is no record that this  
one ever went out. (Motor Vehicle....)

CC/ROV #8852 was assigned  
to Declaration of Intent memo.

Nothing on this in B. Lee's files

" " " " init. history.

So, Meride & I have surmised  
that this was withdrawn before  
it went out & that it just  
wasn't removed from file.

CB Mitchell



Office of the Secretary of State  
March Fong Eu

Executive Office  
1230 J Street  
Sacramento, California 95814

(916) 445-6371

June 9, 1988

Mr. Brian Kidney  
Office of the Chief Clerk  
State Capitol, Room 3196  
Sacramento, California 95814

Dear Mr. Kidney:

Pursuant to Section 3523.1 of the Elections Code as added by SB 1412 (Chapter 642, Statutes of 1980), I am hereby transmitting to you two (2) copies of the initiative entitled: MOTOR VEHICLE ACCIDENT CLAIMS AND INSURANCE RATES. INITIATIVE STATUTE. This initiative has qualified for the November 8, 1988 General Election.

Sincerely,

A handwritten signature in cursive script that reads "March Fong Eu".

MARCH FONG EU

MFE/1/gw

Enclosures





Office of the Secretary of State  
March Fong Eu

1230 J Street  
Sacramento, California 95814

Elections Division  
(916) 445-0820  
TDD: (800) 833-8683

February 18, 1988

TO ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENT (8852)

Pursuant to Section 3513 of the Elections Code, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

MOTOR VEHICLE ACCIDENT CLAIMS  
AND INSURANCE RATES.  
INITIATIVE STATUTE.

Circulating and Filing Schedule

1. Minimum number of signatures required..... 372,178  
Cal. Const., Art. II, Sec. 8(b).
2. Official Summary Date..... Thursday, February 18, 1988  
Elec. C., Sec. 3513.
3. Petition Sections:
  - a. First day Proponent can circulate Sections for  
signatures..... Thursday, February 18, 1988  
Elec. C., Sec. 3513.
  - b. Last day Proponent can circulate and file with  
the county. All Sections are to be filed at  
the same time within each  
county..... Monday, July 18, 1988+\*  
Elec. C., Secs. 3513, 3520(a).
  - c. Last day for county to determine total number  
of signatures affixed to petition and to  
transmit total to the Secretary of State..... Monday, July 25, 1988

(If the Proponent files the petition with the county on a date prior to 07/18/88, the county has five working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State.) Elec. C., Sec. 3520(b).

\* Date adjusted for official deadline which falls on Sunday. Elec. C., Sec. 60.

+PLEASE NOTE: To the Proponent who may wish to qualify for the November 8, 1988 General Election. The law allows approximately 85 days for county election officials to check and report petition signatures and transmit results. The law also requires that this process be completed 131 days before the election in which the people will vote on the initiative. It is possible that the county may not need precisely 85 days. But if you want to be sure that this initiative qualifies for the November 8, 1988 General Election, you should file this petition with the county before April 6, 1988.

- d. Secretary of State determines whether the total number of signatures filed with all county clerks meets the minimum number of required signatures, and notifies the counties..... Wednesday, August 03, 1988\*\*

- e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State..... Thursday, August 18, 1988

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 07/25/88 the last day is not later than the fifteenth day after the county's receipt of notification.)  
Elec. C., Sec. 3520(d), (e).

- f. If the signature count is more than 409,395 or less than 353,569, then the Secretary of State certifies the petition has qualified or failed, and notifies the counties. If the signature count is between 353,569 and 409,395 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures..... Sunday, August 28, 1988\*\*

- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State..... Wednesday, October 12, 1988

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 08/18/88, the last day is not later than the thirtieth working day after county's receipt of notification.)  
Elec. C., Sec. 3521(b), (c).

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient..... Sunday, October 16, 1988

MOTOR VEHICLE ACCIDENT CLAIMS  
AND INSURANCE REGULATION.  
INITIATIVE STATUTE.

Page 3

February 18, 1988

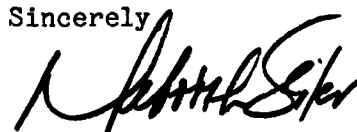
4. The Proponent of the above named measure is:

Honorable Richard Polanco  
Assemblyman  
State Capitol  
Sacramento, California 95814  
(916) 445-7587

5. Important Points:

- (a) Please refer to Elections Code sections 44, 3501, 3507, 3508, 3517, and 3519 for appropriate format and type considerations in printing, typing, and otherwise preparing your initiative petition for circulation and signatures. Please send us a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file in this matter.
- (b) Your attention is directed to the campaign disclosure requirements of the Political Reform Act of 1974, Government Code section 81000 et seq.
- (c) When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- (d) When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- (e) When filing the petition with the county elections official, please provide a blank petition for elections official use.

Sincerely



DEBORAH SEILER  
Assistant to the Secretary of State  
Elections and Political Reform

Attachment: POLITICAL REFORM ACT OF 1974 REQUIREMENTS

02/18/88

Date: February 18, 1988  
File No: SA 87 RF 0044

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure.

MOTOR VEHICLE ACCIDENT CLAIMS AND INSURANCE RATES. INITIATIVE STATUTE. For accidents occurring from November 9, 1988 to December 31, 1992, limits motor vehicle accident claims for non-economic losses such as pain and suffering to 25 percent of economic losses; prohibits contingent fees greater than 25 percent of economic losses. Limitations not applicable to survival, wrongful death actions or actions involving serious and permanent injuries and/or disfigurement. Sets maximum rates for vehicle bodily injury and uninsured motorist insurance at 50% of insurer's premium in effect October 31, 1988 or rates of October 31, 1987, adjusted for inflation, whichever is lower. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Unknown effect on state revenues derived from the gross premiums tax paid by insurance companies. Fiscal effect depends on how insurance companies and consumers react to the measure's rate reductions. If supply and demand stay the same, it is estimated that state general fund revenues from the gross premiums tax could be reduced by about \$70 million in 1988-89 (partial year) and \$120 million in 1989-90 (first full year). If insurance companies increase other rates to compensate for the rate reductions, the revenue loss could be less. Also, the adoption would increase state administrative costs by about \$2 million in the first year and about \$1 million annually thereafter. Such administrative costs will be paid for by fees and assessments on the insurance industry. State and local court costs may be reduced by unknown amounts by the measure's specified limitations on legal actions.

12-point  
Boldface  
Type

# INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the Attorney General. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

Type Roman  
Boldface  
underlined  
12-point

## TO THE HONORABLE SECRETARY OF STATE OF CALIFORNIA

We, the undersigned, registered, qualified voters of California, residents of \_\_\_\_ County (or city and county), hereby propose amendments to the Business and Professions Code, Civil Code, the Code of Civil Procedure, and the Insurance Code, relating to noneconomic losses for bodily injury and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law.



The proposed statutory amendments (full title and text of the measure) read as follows:

SECTION 1. (a) We the people of the State of California hereby find and declare that insurance coverage of liability for bodily injury arising out of the use of motor vehicles has become unaffordable to many individuals and businesses.

(b) We the people also find and declare that the high cost of this coverage is the result of the bodily injury reparations system in effect today.

(c) In order to address these concerns, we the people further find and declare that it is necessary and proper to (1) reform the reparations system as set forth in the statutes of this state and as developed in numerous court decisions, and (2) as a direct result, reduce by 50 percent premiums for coverage of liability for bodily injury provided by policies covering liability arising out of the use of any motor vehicle.

(d) With these goals in mind, we the people do hereby enact this initiative measure.

SEC. 2. Section 6146.6 is added to the Business and Professions Code, to read:

6146.6. (a) For the purposes of this section:

(1) "Bodily injury" means injury to a person

which arises out of the use of a motor vehicle as a motor vehicle and any sickness or disease that results from the injury. Bodily injury does not mean injury occurring during the use of a motor vehicle but not arising out of that use.

(2) "Economic losses" means objectively verifiable past and future monetary losses not compensable from other sources, including medical expenses, loss of earnings, including future loss, burial costs, loss of business, loss of employment opportunity, and costs of obtaining necessary substitute domestic services, excluding services rendered by relatives, members of the injured person's household, or others under age 16. No other losses or damages shall be considered economic losses.

(3) "Motor vehicle" means any vehicle designed primarily for use on streets and highways and subject to motor vehicle registration under the laws of California.

(4) "Person" means a natural person and not a corporation, partnership, association, or trust.

(5) "Use of a motor vehicle" means operating, maintaining, loading, or unloading a motor vehicle.

(b) An attorney shall not contract for or collect a contingency fee for representing any person

seeking damages in connection with a claim for bodily injury, which is not both serious and permanent as defined in subdivision (b) of Section 3333.6 of the Civil Code, or which does not involve serious and irreparable permanent disfigurement, presented to an insurer providing coverage of liability for bodily injury arising out of the use of a motor vehicle, in excess of 25 percent of the economic losses recovered.

(c) This section does not apply to either survival actions provided for in Section 573 of the Probate Code or wrongful death actions.

(d) This section only applies to causes of action arising from accidents that occur on and after November 9, 1988, and on or before December 31, 1992.

SEC. 3. Section 6147 of the Business and Professions Code is amended to read:

6147. (a) An attorney who contracts to represent a plaintiff on a contingency fee basis shall, at the time the contract is entered into, provide a duplicate copy of the contract, signed by both the attorney and the plaintiff, or his guardian or representative, to the plaintiff, or to the plaintiff's guardian or representative. The contract shall be in writing and shall include, but is not limited to, all of the following:

(1) A statement of the contingency fee rate which the client and attorney have agreed upon.

(2) A statement as to how disbursements and costs incurred in connection with the prosecution or settlement of the claim will affect the contingency fee and the client's recovery.

(3) A statement as to what extent, if any, the plaintiff could be required to pay any compensation to the attorney for related matters that arise out of their relationship not covered by their contingency fee contract. This may include any amounts collected for the plaintiff by the attorney.

(4) Unless the claim is subject to the provisions of Section 6146 or 6146.6, a statement that the fee is not set by law but is negotiable between attorney and client.

(5) If the claim is subject to the provisions of Section 6146 or 6146.6, a statement that the rates set forth in that section are the maximum limits for the contingency fee agreement, and that the attorney and client may negotiate a lower rate.

(b) Failure to comply with any provision of this section renders the agreement voidable at the option of

the plaintiff, and the attorney shall thereupon be entitled to collect a reasonable fee.

(c) This section shall not apply to contingency fee contracts for the recovery of workers' compensation benefits.

SEC. 4. Section 3333.6 is added to the Civil Code, to read:

3333.6. (a) For the purposes of this section:

(1) "Bodily injury" means injury to a person which arises out of the use of a motor vehicle as a motor vehicle and any sickness or disease that results from the injury. Bodily injury does not mean injury occurring during the use of a motor vehicle but not arising out of that use.

(2) "Economic losses" means objectively verifiable monetary past and future losses not compensable from other sources, including medical expenses, loss of earnings, including future loss, burial costs, loss of business, loss of employment opportunity, and costs of obtaining necessary substitute domestic services, excluding services rendered by relatives, members of the injured person's household, or others under age 16. No other losses or damages shall be considered economic losses.

(3) "Motor vehicle" means any vehicle designed primarily for use on streets and highways and subject to motor vehicle registration under the laws of California.

(4) "Noneconomic losses" means all losses except those specifically defined as "economic losses" in paragraph (2), including, but not limited to, subjective, nonmonetary losses such as pain and suffering, inconvenience, mental suffering, emotional distress, loss of society, loss of companionship, loss of consortium, injury to reputation, humiliation, or any combination of the above.

(5) "Person" means a natural person and not a corporation, partnership, association, or trust.

(6) "Use of a motor vehicle" means operating, maintaining, loading, or unloading a motor vehicle.

(b) No person or entity may recover noneconomic losses in excess of 25 percent of economic losses for bodily injury resulting from or caused by an accident arising out of the use of a motor vehicle unless the person seeking recovery, as a direct result of the accident, has suffered an injury resulting in either of the following:

(1) Serious and irreparable permanent disfigurement.

(2) Any injury which is both serious and permanent. An injury is "serious" for the purposes of this paragraph only if it substantially prohibits the injured person from resuming substantially all of his or her normal activities. An injury is "permanent" only if its effects cannot be eliminated by further time for recovery or by further medical treatment and care, including surgery, or both.

(c) This section does not apply to either survival actions provided for under Section 573 of the Probate Code or wrongful death actions.

(d) This section only applies to causes of action arising from accidents that occur on or after November 9, 1988, and on or before December 31, 1992.

SEC. 5. Section 425.14 is added to the Code of Civil Procedure, to read:

425.14. (a) For purposes of this section:

(1) "Bodily injury" means injury to a person which arises out of the use of a motor vehicle as a motor vehicle and any sickness or disease that results from the injury. Bodily injury does not mean injury occurring during the use of a motor vehicle but not arising out of that use.

(2) "Economic losses" means objectively

verifiable monetary past and future losses not compensable from other sources, including medical expenses, loss of earnings, including future loss, burial costs, loss of business, loss of employment opportunity, and costs of obtaining necessary substitute domestic services, excluding services rendered by relatives, members of the injured person's household, or others under age 16. No other losses or damages shall be considered economic losses.

(3) "Motor vehicle" means any vehicle designed primarily for use on streets and highways and subject to motor vehicle registration under the laws of California.

(4) "Noneconomic losses" means all losses except those specifically defined as "economic losses" in paragraph (2), including, but not limited to, subjective, nonmonetary losses, such as pain and suffering, inconvenience, mental suffering, emotional distress, loss of society, loss of companionship, loss of consortium, injury to reputation, humiliation, or any combination of the above.

(5) "Person" means a natural person and not a corporation, partnership, association, or trust.

(6) "Use of a motor vehicle" means operating, maintaining, loading, or unloading a motor vehicle.



(b) No claim to recover noneconomic losses in excess of 25 percent of economic losses, resulting from or caused by an accident arising out of the use of a motor vehicle, shall be included in a complaint or other pleading unless the court enters an order allowing an amended pleading to be filed that includes a claim for noneconomic losses in excess of 25 percent of economic losses. The court may allow the filing of an amended pleading claiming noneconomic losses in excess of 25 percent of economic losses on a motion by the party seeking the amended pleading if the court finds that the plaintiff has established that there is a substantial probability that the plaintiff will prevail on the claim that the limitations provided in Section 3333.6 of the Civil Code do not apply on the basis of the findings of the physician selected pursuant to subdivision (c), the findings of other physicians, and any other relevant information the court wishes to consider. The court shall not grant a motion allowing the filing of an amended pleading that includes a claim for noneconomic damages in excess of 25 percent of economic damages if the motion for the order is not filed within two years after the complaint or initial pleading is filed.

(c) If a defendant disputes that the plaintiff's

injury meets the requirements of Section 3333.6 of the Civil Code, the plaintiff shall be examined by a neutral physician selected pursuant to this subdivision. The county medical association for the county in which the action has been filed shall furnish, upon request of either party, the names of three physicians whose specialties qualify them to evaluate the injury, whose practices are located in the county in which the action has been filed, and who have agreed to provide examinations for the purposes of this section. If the county medical association is unable to furnish the names of three physicians, the Board of Medical Quality Assurance shall furnish the names. If there are not three physicians whose practices are located in the county in which the action has been filed, whose specialties qualify them to evaluate the injury, and who have agreed to provide examinations for the purposes of this section, the county medical association or the Board of Medical Quality Assurance, as applicable, shall furnish the names of three qualified physicians whose practices are located in a nearby county and whose practices are closest to the county in which the action has been filed. The plaintiff and defendant shall each eliminate one name. The remaining physician shall examine the plaintiff and

furnish copies of his or her written findings to the plaintiff, defendant, and the court. Both parties shall share equally in the costs of the examination. The examination provided pursuant to this subdivision shall be in addition to other discovery provided for by law. If the plaintiff refuses to submit to the examination, the court shall deny plaintiff's motion for an order allowing an amended pleading to be filed that includes a claim for noneconomic losses in excess of 25 percent of economic losses.

(d) This section does not apply to either survival actions provided for in Section 573 of the Probate Code or wrongful death actions.

(e) This section only applies to causes of action arising from accidents that occur on or after November 9, 1988, and on or before December 31, 1992.

SEC. 6. Section 1852.5 is added to the Insurance Code, to read:

1852.5. (a) For the purposes of this section:

(1) "Bodily injury" means injury to a person which arises out of the use of a motor vehicle as a motor vehicle and sickness, disease, or death that results from the injury. Bodily injury does not mean injury occurring during the use of a motor vehicle but not arising out of

that use.

(2) "Motor vehicle" means any vehicle designed primarily for use on streets and highways and subject to motor vehicle registration under the laws of California.

(3) "Person" means a natural person and not a corporation, partnership, association, or trust.

(4) "Use of a motor vehicle" means operating, maintaining, loading, or unloading a motor vehicle.

(b) For any coverage of liability for bodily injury arising out of the use of a motor vehicle provided by policies issued or renewed in this state with an effective date on or after November 9, 1988, the maximum premium rate charged by each motor vehicle liability insurer admitted in this state shall be the lower of the following:

(1) The insurer's premium rate in effect on October 31, 1988, reduced by 50 percent.

(2) The insurer's premium rate in effect on October 31, 1987, increased in an amount not to exceed the amount of the Physicians' Services component of the Consumer Price Index applicable to California for the period of time from October 1, 1987, to November 1, 1988, reduced by 50 percent.

The maximum premium rate shall also apply to

premium rates for any uninsured motorist coverage of bodily injury.

(c) No insurer required to reduce premium rates pursuant to subdivision (b) may increase premium rates for coverage for bodily injury arising out of the use of any motor vehicle for any policy issued or renewed with an effective date before November 9, 1989. For any policy issued or renewed with an effective date from November 9, 1989, to December 31, 1992, the premium rates for coverage for bodily injury arising out of the use of any motor vehicle shall not be increased at an annual rate in excess of the Physicians' Services component of the Consumer Price Index applicable to California for the 12-month period preceding the increase.

(d) Each insurer required to reduce premium rates pursuant to subdivision (b) shall file a report evidencing compliance with its provisions with the commissioner by December 9, 1988. The report shall set forth the insurer's premium rates in effect on October 31, 1987, and October 31, 1988, for coverage of liability for bodily injury, and the reduced premium rates in effect on and after November 9, 1988. From November 9, 1989, to December 31, 1992, each insurer shall file a report within 30 days of any change in premium rates for coverage of

liability for bodily injury arising out of the use of any motor vehicle with the commissioner. The report shall set forth the insurer's premium rates in effect prior to the change in premium rates, for coverage of liability for bodily injury, and the insurer's new premium rates.

(e) (1) Each motor vehicle liability insurer admitted in this state, including an insurer admitted after November 8, 1988, that did not have premium rates in effect for new business on October 31, 1988, for any coverage of liability for bodily injury arising out of the use of a motor vehicle because it did not offer that coverage on or before that date shall not increase premium rates initially imposed in excess of the amounts specified in subdivision (c), shall file a report of any change in premium rates as required by subdivision (d), and, if applicable, shall be subject to paragraph (2).

(2) If a motor vehicle liability insurer described in paragraph (1) is a subsidiary of, is controlled by, is a surviving corporation of, or is subject to common control along with an insurer required to reduce premium rates pursuant to subdivision (b), it may not have premium rates in excess of those permitted for the insurer required to reduce premium rates pursuant to subdivision (b).

For the purposes of this paragraph, "control" has the meaning set forth in subdivision (a) of Section 160 of the Corporations Code, "subsidiary" has the meaning set forth in Section 189 of the Corporations Code, and "surviving corporation" has the meaning set forth in Section 190 of the Corporations Code.

(3) If a motor vehicle liability insurer described in paragraph (1) is not subject to paragraph (2), then prior to the offer of any coverage of liability for bodily injury arising out of the use of a motor vehicle, it shall file its premium rates with the commissioner and obtain the commissioner's approval of those rates. Paragraph (1) shall apply to any subsequent increase in premium rates.

(f) This section applies to policies issued pursuant to Article 4 (commencing with Section 11620) of Chapter 1 of Part 3 of Division 2.

(g) The commissioner shall enforce the provisions of this section in accordance with Article 7 (commencing with Section 1858) including, but not limited to, by means of appropriate suspensions and revocations of certificates of authority and penalties.

(h) Except as provided in this section, the rating and classification of motor vehicle insurance shall

be regulated in accordance with the provisions of Section 1852 in effect on January 1, 1988.

(i) Except as expressly provided, this section shall not affect the Insurance Code or any regulations issued pursuant to the Insurance Code.

SEC. 7. Section 3333.6 of the Civil Code, added by Section 4 of this measure and Section 1852.5 of the Insurance Code, added by Section 6 of this measure, are dependent on each other and are not severable.

SEC. 8. (a) Except as provided in subdivision (b), the provisions of this measure shall not be amended by the Legislature by any bill which becomes operative on or before December 31, 1992, unless the bill (1) furthers the purposes of this act and is passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring or (2) becomes effective only when approved by the electors.

(b) For any bill with an operative date on or after January 1, 1993, or that amends or repeals Section 6147 of the Business and Professions Code, as amended by Section 3 of this measure, the Legislature may amend or repeal the provisions of this measure by whatever vote is otherwise applicable to the bill and the bill need not be approved by the electors.



JOHN K. VAN DE KAMP  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



February 18, 1988

1515 K STREET, SUITE 511  
P.O. BOX 944255  
SACRAMENTO 94244-2550  
(916) 445-9555  
(916) 324-5468

Honorable March Fong Eu  
Secretary of State  
1230 J Street  
Sacramento, California 95814

Dear Mrs. Eu:

Initiative Title and Summary.  
Subject: MOTOR VEHICLE ACCIDENT CLAIMS  
AND INSURANCE RATES. INITIATIVE STATUTE.  
Our File No.: SA 87 RF 0044 (Revised)

**FILED**  
In the office of the Secretary of State  
of the State of California

FEB 18 1988

MARCH FONG EU, Secretary of State

By Barbara J. Lee  
Deputy

Pursuant to the provisions of sections 3503 and 3513 of the Elections Code, you are hereby notified that on this day we mailed to the proponent of the above-identified proposed initiative our corrected title and summary.

The purpose of this letter is to correct an error in the title and summary issued by this office on December 28, 1987. The phrase "prohibits contingent fees greater than 25 percent of non-economic losses" has been changed to "prohibits contingent fees greater than 25 percent of economic losses" (emphasis added). The complete sentence now reads: "For accidents occurring from November 9, 1988 to December 31, 1992, limits motor vehicle accident claims for non-economic losses such as pain and suffering to 25 percent of economic losses; prohibits contingent fees greater than 25 percent of economic losses."

Enclosed is a copy of our transmittal letter to the proponent, a copy of our corrected title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the name and address of the proponent is as stated on the declaration of mailing.

Very truly yours,

JOHN K. VAN DE KAMP  
Attorney General

Paul H. Dobson  
PAUL H. DOBSON, Supervising  
Deputy Attorney General

PHD:kca  
Enclosures





Office of the Secretary of State  
March Fong Eu

1230 J Street  
Sacramento, California 95814

ELECTIONS DIVISION  
(916) 445-0820

For Hearing and Speech Impaired  
Only:  
(800) 833-8683

March 7, 1988

TO ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENT (8868)

Pursuant to Section 3513 of the Elections Code, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

SMALL CLAIMS COURT.  
INITIATIVE STATUTE.

Circulating and Filing Schedule

1. Minimum number of signatures required..... 372,178  
Cal. Const., Art. II, Sec. 8(b).
2. Official Summary Date..... Monday, 03/07/88  
Elec. C., Sec. 3513.
3. Petition Sections:
  - a. First day Proponent can circulate Sections for  
signatures..... Monday, 03/07/88  
Elec. C., Sec. 3513.
  - b. Last day Proponent can circulate and file with  
the county. All Sections are to be filed at  
the same time within each  
county..... Thursday, 08/04/88+  
Elec. C., Secs. 3513, 3520(a).
  - c. Last day for county to determine total number  
of signatures affixed to petition and to  
transmit total to the Secretary of State..... Thursday, 08/11/88

(If the Proponent files the petition with the county on a date prior to 08/04/88, the county has five working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State.) Elec. C., Sec. 3520(b).

\*PLEASE NOTE: To the Proponent who may wish to qualify for the November 8, 1988 General Election. The law allows approximately 85 days for county election officials to check and report petition signatures and transmit results. The law also requires that this process be completed 131 days before the election in which the people will vote on the initiative. It is possible that the county may not need precisely 85 days. But if you want to be sure that this initiative qualifies for the November 8, 1988 General Election, you should file this petition with the county before April 6, 1988.

- d. Secretary of State determines whether the total number of signatures filed with all county clerks meets the minimum number of required signatures, and notifies the counties..... Saturday, 08/20/88\*\*
- e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State..... Sunday, 09/04/88
- (If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 08/11/88 the last day is not later than the fifteenth day after the county's receipt of notification.)  
Elec. C., Sec. 3520(d), (e).
- f. If the signature count is more than 409,395 or less than 353,569, then the Secretary of State certifies the petition has qualified or failed, and notifies the counties. If the signature count is between 353,569 and 409,395 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures..... Wednesday, 09/14/88\*\*
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State..... Thursday, 10/27/88
- (If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 09/04/88, the last day is not later than the thirtieth working day after county's receipt of notification.)  
Elec. C., Sec. 3521(b), (c).
- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient..... Monday, 10/31/88

\*\*Date varies based on receipt of county certification.

SMALL CLAIMS COURT.  
INITIATIVE STATUTE.

Page 3

March 7, 1988

4. The Proponent of the above named measure is:

Judge Roderic Duncan  
Alameda County Superior Court  
1225 Fallon Street  
Oakland, California 94612  
(415) 272-6141

5. Important Points:

- (a) Please refer to Elections Code sections 44, 3501, 3507, 3508, 3517, and 3519 for appropriate format and type considerations in printing, typing, and otherwise preparing your initiative petition for circulation and signatures. Please send us a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file in this matter.
- (b) Your attention is directed to the campaign disclosure requirements of the Political Reform Act of 1974, Government Code section 81000 et seq.
- (c) When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- (d) When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- (e) When filing the petition with the county elections official, please provide a blank petition for elections official use.

Sincerely,



DEBORAH SEILER  
Assistant to the Secretary of State  
Elections and Political Reform

Attachment: POLITICAL REFORM ACT OF 1974 REQUIREMENTS

03/07/88

JOHN K. VAN DE KAMP  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



1515 K STREET, SUITE 511  
P.O. BOX 944255  
SACRAMENTO 94244-2550  
(916) 445-9555

(916) 323-1995

March 7, 1988

**FILED**  
In the office of the Secretary of State  
of the State of California

MAR - 7 1988

MARCH FONG EU, Secretary of State  
By *[Signature]* Deputy

Judge Roderic Duncan  
Alameda County Superior Court  
1225 Fallon Street  
Oakland, CA 94612

Initiative Title and Summary.  
Subject: SMALL CLAIMS COURT. INITIATIVE STATUTE.  
Our File No: SA 88 RF 0002

Pursuant to your request, we have prepared the attached title and summary of the chief purposes and points of the above identified proposed initiative. A copy of our letter to the Secretary of State, as required by Elections Code sections 3503 and 3513, our declaration of mailing, and the text of your proposal that was considered is attached.

The Secretary of State will be sending you shortly a copy of the circulating and filing schedule for your proposal that will be issued by that office.

Please send us a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file in this matter.

Very truly yours,

JOHN K. VAN DE KAMP  
Attorney General

*Floyd D. Shimomura*  
FLOYD D. SHIMOMURA  
Deputy Attorney General

FDS:rrc  
Enclosures

1 6 3

Date: March 7, 1988  
File No: SA 88 RF 0002

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

SMALL CLAIMS COURT. INITIATIVE STATUTE. Increases the maximum amount which may be claimed in small claims court from \$1,500 to \$10,000. Also increases the maximum amount claimable after default in rent for certain residential property from \$1,500 to \$10,000. Deletes provisions relating to the small claims court's existing jurisdiction to enforce payment of certain delinquent unsecured personal property taxes and to issue the writ of possession. Requires proceeds from certain increased filing fees to be used exclusively for providing individual assistance advisory services to small claim litigants. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: The net fiscal effect of raising the monetary limit on the courts is unknown because of uncertainties over the extent to which the added costs of increased filings in small claims courts will be offset by the savings of decreased filings in the municipal and justice courts. It also would result in an unknown net loss of revenue to the state and an unknown increase in revenues to counties primarily due to changes in the amount of filing fees that will be generated and the dedication of filing fees for the specific local program of providing small claims advisory services.

AN ACT IMPROVING ACCESS TO SMALL CLAIM COURT

Under present law, suits for more than \$1,500 cannot be brought in the Small Claims Division of the Municipal Court, popularly known as "People's Court." This act would raise the small claims limit to \$10,000. It would provide a way for ordinary people with small legal problems to resolve their disputes without having to hire a lawyer. Lawyers are not permitted in small claims court. However, persons who feel they need a lawyer in a case within the small claims limit can still bypass the small claims division and file their case in the civil division. By diverting more cases into small claims courts, some of the present overcrowding of calendars in other courts would be relieved. The Act will also provide for expanding the free advisory service available to small claims litigants through use of a portion of filing fees.

The Act: Section 1. Section 116.2 of the Code of Civil Procedure is amended to read:

"The Small Claims Division shall have jurisdiction in actions:

- (a) For recovery of money only where the amount of the demand does not exceed ten thousand dollars;
- (b) In unlawful detainer, after a default in rent for residential property, where the term of tenancy is not greater than month to month and the amount claimed does not exceed ten thousand dollars."

Section 2. Section 117.18 of the Code of Civil Procedure is amended to read:

"In each county, individual assistance shall be made available to advise small claims court litigants and

potential litigants at no additional charge. Except as otherwise provided in this section, each county may determine the characteristics of the advisory service in accordance with local needs and conditions. The advisory service may be provided in person, by telephone, or by any other means reasonably calculated to provide timely and appropriate assistance. Adjacent counties may provide advisory services jointly. The service shall operate in conjunction and cooperation with the small claims divisions of the courts, but shall be administered in such a manner as to be independent of control of the court. Persons providing assistance may be volunteers and shall be members of the State Bar, law students, paralegals, or persons experienced in resolving minor disputes and familiar with small claims court rules and procedures. Persons providing assistance shall not appear in court as an advocate for any party. The Judicial Council, in consultation with the Department of Consumer Affairs, shall adopt rules to ensure that litigants receive adequate notice of the availability of assistance, to prescribe other qualifications and the conduct of those who provide assistance, and to address other matters as are deemed necessary and appropriate. The funds collected from the increased filing fee provided in the Code of Civil Procedure Section <sup>117.14</sup> ~~117.1~~ for those filing more than 12 cases per year shall be used exclusively to fund said advisory service."





Office of the Secretary of State  
March Fong Eu

Executive Office  
1230 J Street  
Sacramento, California 95814

(916) 445-6371

June 9, 1988

Mr. Darryl White  
Secretary of the Senate  
State Capitol, Room 3045  
Sacramento, California 95814

Dear Mr. White:

Pursuant to Section 3523.1 of the Elections Code as added by SB 1412 (Chapter 642, Statutes of 1980), I am hereby transmitting to you two (2) copies of the initiative entitled: MOTOR VEHICLE ACCIDENT CLAIMS AND INSURANCE RATES. INITIATIVE STATUTE. This initiative has qualified for the November 8, 1988 General Election.

Sincerely,

A handwritten signature in cursive script that reads "March Fong Eu".

MARCH FONG EU

MFE/1/gw

Enclosures





Office of the Secretary of State  
March Fong Eu

Executive Office  
1230 J Street  
Sacramento, California 95814

(916) 445-6371

June 9, 1988

The Honorable Richard Polanco  
State Capitol, Room 6011  
Sacramento, California 95814

Dear Assemblyman Polanco:

Pursuant to Elections Code § 3523, I hereby certify that on June 9, 1988 the certificates received from the County Clerks or Registrars of Voters by the Secretary of State established that the Initiative Statute, MOTOR VEHICLE ACCIDENT CLAIMS AND INSURANCE RATES, has been signed by the requisite number of qualified electors needed to declare the petition sufficient. The MOTOR VEHICLE ACCIDENT CLAIMS AND INSURANCE RATES. INITIATIVE STATUTE is, therefore, qualified for the November 8, 1988 General Election.

Sincerely,

A handwritten signature in cursive script that reads "March Fong Eu".

MARCH FONG EU

MFE/1/gw



JOHN K. VAN DE KAMP  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



1515 K STREET, SUITE 511  
P.O. BOX 944255  
SACRAMENTO 94244-2550  
(916) 445-9555

(916) 323-1995

March 7, 1988

Honorable March Fong Eu  
Secretary of State  
1230 J Street  
Sacramento, CA 95814

Dear Mrs. Eu:

Initiative Title and Summary.  
Subject: SMALL CLAIMS COURT. INITIATIVE STATUTE.  
Our File No: SA 88 RF 0002

Pursuant to the provisions of section 3503 and 3513 of the Elections code, you are hereby notified that on this day we mailed to the proponent of the above identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponent, a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the name and address of the proponent is as stated on the declaration of mailing.

Very truly yours,

JOHN K. VAN DE KAMP  
Attorney General

*Floyd D. Shimomura*

FLOYD D. SHIMOMURA  
Deputy Attorney General

FDS:rrc  
Enclosures

Judge Roderic Duncan  
Alameda County Superior Court  
1225 Fallon Street  
Oakland, CA 94612  
(415) 272-6070 614/  
1-28-88

Amendment #1  
SA 88 RF 0002

Mr. Paul Dobrow  
Department of Justice  
P.O. Box 944255  
Sacramento, CA 94244-2550

Re: Small Claims Initiative  
SA 88 RF 0002

I hereby amend the proposed initiative  
previously submitted to read as attached.

Roderic Duncan

# DECLARATION OF MAILING

The undersigned Declarant, states as follows:

I am over the age of 18 years and not a proponent of the within matter; my place of employment and business address is 1515 K Street, Suite 511, Sacramento, California 95814.

On the date shown below, I mailed a copy of copies of the attached letter to the proponents, by placing a true copy thereof in an envelope addressed to the proponents named below at the addresses indicated, and by sealing and depositing said envelope or envelopes in the United States mail at Sacramento, California, with postage prepaid. There is delivery service by United States mail at each of the places so addressed, or there is regular communication by mail between the place of mailing and each of the places so addressed.

Date of Mailing: March 7, 1988

Initiative Title and Summary.

Subject: SMALL CLAIMS COURT. INITIATIVE STATUTE.


Our File No: SA 88 RF 0002

Name of Proponents and Addresses:

Judge Roderic Duncan  
Alameda County Superior Court  
1225 Fallon Street  
Oakland, CA 94612

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Sacramento, California March 7, 1988.

  
ROSEMARY R. CALDERON  
Declarant  
(916) 323-1995

# NEWS RELEASE

from: Secretary of State March Fong Eu  
1230 J Street, Sacramento, CA 95814  
(916) 445-6375

For Immediate Release  
March 7, 1988

Contact: Caren Daniels-Meade or  
Melissa Warren

## EU REPORTS NEW INITIATIVE ENTERS CIRCULATION

SACRAMENTO — Secretary of State March Fong Eu announced today (Mar. 7) that an initiative measure aimed at making changes in California's small claims courts has been certified to begin circulating.

"Small Claims Court" is an initiative statute that requires 372,178 signatures of registered voters to earn a spot on the ballot. The proponent, Judge Roderic Duncan of the Alameda County Superior Court, must submit all signatures to county elections officials by Aug. 4, the legal 150-day deadline.

Present law limits the amount that may be claimed in small claims court and the maximum amount claimable after default in rent for residential property to \$1,500. This measure would increase both amounts to \$10,000. It would also delete current provisions relating to the small claims courts' jurisdiction to enforce payment of certain delinquent personal property taxes and to issue the writ of possession. It further would require that increases in certain filing fees be used exclusively to provide advisory services to small claim litigants.

Judge Duncan can be reached at (415) 272-6141.

Addition of this measure brings the total number of initiatives in circulation to 34. A total of 57 measures have been titled and summarized for the 1988 election cycle.

A copy of the initiative, its circulation calendar and title and summary is attached.

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8827MW



# INITIATIVE CHECK LIST

Phone Notification from AG - Date/Time: 3/7/88 - 8:30

Title of Initiative: Small Claims Court

Type of Initiative:      CA   ✓   S      CA and S

Number of Pages   2   Number of Proponents   1  

Date and Time Initiative will be ready for pick-up 3/7/88 - 8:30

Initial/Date/Time

1. da 3/7 8:40 OSSI informs Deborah/David/Barbara/Caren and Don day and time initiative will be ready for pick-up.
2. da 3/7 9:40 OSSI gives check list to Word Processing Technician to prepare calendar.
3. da 3/7 11:55 Word Processing Technician prepares and proofs fraud calendar and log and returns both to OSSI.
4. da 3/7 11:55 OSSI proofs calendar and log.
5. da 3/7 11:56 OSSI gives final calendar and log to Elections Analyst.
6. BL 3/7 1:05 Elections Analyst reviews and has Elections Chief sign. Elections Analyst returns signed calendar to OSSI.
7. da 3/7 1:25 OSSI makes copies of initiative calendar for each proponent.
8. da 3/7 1:28 OSSI attaches copy of Political Reform Act of 1974 Requirements to proponent's copy of initiative calendar.
9. da 3/7 1:40 OSSI prepares Mail/Freight Request Form. OSSI hand carries Mail/Freight Request form and initiative calendar for each proponent (ready for mailing) to Service and Supply. Initiative calendar sent on 3/7 to each proponent.  
Date

(This must be sent to each proponent same day AG prepares Title and Summary).

10. da 3/7 12:00 OSSI advises Assistant Chief when initiative calendar is sent to proponent(s).

INITIATIVE CALENDAR CHECK LIST

Page two

11. da 3/7 3:00 OSSI distributes copies of initiative calendar same day AG prepares Title and Summary to:
- ☒ Tony
  - ☒ Caren
  - ☒ Jerry
  - ☒ Deborah
  - ☒ Barbara
12. da 3/8 11:00 OSSI distributes copies of initiative calendar to:
- ☒ All CC/ROV
  - ☒ Political Reform (3 copies)
  - ☒ Elections Staff
  - ☒ LA Office via LA Pouch -
  - ☒ J.R. Schultz (12 copies)
  - ☒ Initiative mailing list
  - ☒ Extra copies for public distribution
  - ☒ Master copy
13. da 3/8 10:00 OSSI advises Assistant Chief of completion of above distribution.
14. da 3/8 10:00 OSSI makes copies of log and distributes as follows:
1. Initiative canvass binder
  2. Vi Daniels - FTB
  3. Archives
  4. Oliver Cox
  5. Initiative Clipboard
15. AP 3/7 3:20 OSSI prepares folder for public distribution.
16. AP 3/8 9:45 OSSI prepares index cards for each initiative.
17. da 3/7 1:35 OSSI staples Mail/Freight Request form to back of INITIATIVE CHECK LIST.
18. da 3/8 11:30 OSSI returns completed INITIATIVE CHECK LIST to Assistant Chief.
19. 1 1 Assistant Chief returns check list to Election Analyst.



ELECTIONS DIVISION  
MAIL/FREIGHT REQUEST

Mail Submitted to Mail Room

3/7/88 / 1:35  
Date Time

Request mail to be sent no later than

3/8/88  
Date

MAIL:

- ☒ 1st Class  
☐ Bulk  
☐ Book Rate  
☐ Presort  
☐ Third Class

CHARGES:

Amount: .39  
Pieces: 1

FREIGHT:

- ☐ UPS  
☐ Purolator  
☐ Greyhound (Next bus out: Yes \_\_\_\_ No \_\_\_\_)  
☐ Air-Freight  
☐ Truck Lines

ACTIVITY:

- ☐ Outreach (Specify: \_\_\_\_\_)  
☐ County Mailings (#'s: \_\_\_\_\_)  
☐ Ballot Pamphlet  
☐ Other (Specify: \_\_\_\_\_)  
☒ Initiative Calendar to Proponent(s).

Mail room sent requested mail on

3/7/88

Bew.  
Initial (Service and Supply)